UNITED STATES DISTRICT C	OURT
SOUTHERN DISTRICT OF NEV	W YORK

AMERICAN INSURANCE COMPANY a/s/o MARIAH CAREY, and SINCLAIR C.S. BEECHAM,

Docket No.: 07 CIV 8604 (WHP) (AJP)

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## Plaintiff,

- against -

CORN ASSOCIATES, LLC, THE FRANKLIN TOWER CONDOMINIUM, KATZ METAL FABRICATORS, INC., OLYMPIC PLUMBING AND HEATING III CORP., and SAMCO PLUMBING, INC.,

AFFIRMATION IN
OPPOSITION TO
DEFENDANT KATZ
METAL FABRICATORS'
MOTION TO DISMISS

## Defendants.

JARED T. GREISMAN, an attorney duly admitted to practice law in the State of New York, hereby affirms the following to be true under the penalties of perjury.

- 1. That I am a Partner with the law firm of WHITE, FLEISCHNER & FINO, LLP, counsel for defendant, THE FRANKLIN TOWER CONDOMINIUM ("Franklin Tower") and as such am fully familiar with the facts and circumstances of this action.
- 2. That I submit this affirmation in opposition to defendant, KATZ METAL FABRICATORS, INC.'s ("Katz") motion for an Order dismissing the action on the grounds that Plaintiffs' claims were not asserted within the time prescribed by the applicable statute of limitations.
- 3. Franklin Tower opposes co-defendant Katz' motion to the extent that its assertion of the statute of limitations defense is inapplicable with respect to Franklin Tower Condominium's Cross-Claims in contribution and indemnification, as the statute of limitations for the third party actions has not begun to run. Accordingly, Franklin Tower's

cross claims against Katz must remain. McDermott v. New York, 50 N.Y.2d 211 (N.Y. 1980);

Bunker v. Bunker, 80 A.D.2d 817 (N.Y. App. Div. 1st Dep't 1981).

Dated: New York, New York

July 15, 2008

Respectfully submitted,

WHITE FLEISCHNER & FINO, LLP

By:

Jared T. Greisman (JG-6983)

Attorneys for Defendant

The Franklin Tower Condominium

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Our File No.: 179-13150-PAF/JTG

ТО:

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Corn Associates, LLC Defendant 36 Chambers Street - Suite 704 New York, NY 10007 Samco Plumbing, Inc. Defendant 36-20 13th Street Long Island City, NY 11106

STATE OF NEW YORK	)	
	)	SS
COUNTY OF NEW YORK	)	

## GLORIA McCLANAHAN being duly sworn, deposes and says:

That I am not a party to the within action, am over 18 years of age and reside in Bronx, New York.

That on July 15, 2008, deponent served a true copy of the within **AFFIRMATION IN OPPOSITION TO DEFENDANT KATZ METAL FABRICATORS' MOTION TO DISMISS** by depositing same in an official depository of the United States Postal Service in a prepaid at the addresses designated by them as the addresses for service of papers.

TO:

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Gloria McClanahan

Notary Public

YURI KAKURIEV
Notary Fublic - State of New York
NO. OTKASOS2503
Qualified in Queens County
My Commission Expires Dec 26, 20//